

## REQUEST TO CHARGE - ENTRAPMENT

Now I will discuss with you the defense of entrapment. The defendant has asserted that he was the victim of entrapment by an agent of the government, specifically that he was entrapped by a confidential informant working as a government agent.

The law permits government agents to trap a willing, criminally-minded person. The law does not permit a government agent to entrap an unwilling or unwary innocent person. Thus, a defendant may not be convicted of a crime if it was a government agent who not only gave the defendant the idea to commit the crime, but also persuaded him to commit a crime that he was not predisposed – or ready and willing – to commit.

Your inquiry on this issue should first be to determine whether there was any evidence that a government agent took the first step that led to a particular criminal act charged in the indictment. If you find there was no such [\_\_\_] evidence, there can be no entrapment and your inquiry on this defense should end there with respect to the specific charge you are considering.

If, on the other hand, you find some evidence that a government agent initiated the criminal acts charged in the indictment, then you must decide if the government has satisfied its burden to prove beyond a reasonable doubt that prior to first being approached by a government agent the defendant was ready

and willing or, as we say, predisposed, to commit the crime. If you find beyond a reasonable doubt that the defendant was predisposed – that is, ready and willing – to commit the offenses charged, and merely awaiting a favorable opportunity to commit them, then you should find that the defendant was not the victim of entrapment. On the other hand, if you have a reasonable doubt that the defendant would have committed the offenses charged without the government's inducement, you must find the defendant not guilty.

[Balance left out, but if the Court decides to include it, the following sentence should be added at the end of the penultimate paragraph: On the other hand, if the crimes charged are the product of persuasion by a government agent to a defendant who was not predisposed to commit the crimes charged, the defendant is not guilty.]

[Changes suggested by Sand, et al., Modern Federal Jury Instructions - Criminal, Instruction 8.07]